

Rec'd from DoD 23 Feb 1984

DOD CURRENT/PROPOSED USE OF POLYGRAPH

<u>RECENTLY AUTHORIZED USES OF THE POLYGRAPH</u>	<u>PROPOSED DIRECTIVE/REGULATION</u>
Investigation of crimes punishable by death, or confinement for one year or more.	No change.
Investigation of unauthorized disclosures of classified information.	No change.
Resolution of serious allegations which might affect security clearance that cannot be resolved through further investigation.	No change.
Military and civilian personnel assigned to the Central Intelligence Agency.	No change.
To test agents, sources or operatives in foreign intelligence or counterintelligence activities.	No change.
Civilian and contractor personnel for employment, assignment or detail to the National Security Agency (NSA). Military personnel* after assignment or detail, only in connection with highly compartmented duties.	All military personnel, upon assignment or detail to NSA, are subject to counterintelligence scope polygraph examination.
To assist in personnel security investigation of foreign nationals when background information cannot be otherwise verified.	Initial and aperiodic, counterintelligence scope, polygraph examination.
When requested by the subject of a criminal, counterintelligence or personnel security investigation for the purpose of exculpation.	No change.

COUNTERINTELLIGENCE POLYGRAPH EXAMINATION

DoD policy does not currently provide for a separate, counterintelligence scope, polygraph examination.	Initial and aperiodic (random selection) examination of civilian, military and contractor personnel for access to specifically designated information within a special access program, approved by the Deputy Under Secretary of Defense for Policy (DUSD (P)). <i>[SA programs: intelligence, operations, etc.]</i>
	In exceptional cases, for interim access to Sensitive Compartmented Information, prior to completion of the background investigation.
	For employment in or assignment to critical intelligence positions in the Defense Intelligence Agency, designated by the Director, DIA.

* Since the 6 August 1982 Carlucci memorandum, all military personnel at NSA are subject to aperiodic (random selection), counterintelligence scope, polygraph examination. The Carlucci memorandum remains in effect at NSA because of congressional exemption.

CURRENTLY AUTHORIZED USES OF THE POLYGRAPH

PROPOSED DIRECTIVE/REGULATION

ADVERSE ACTION* BASED ON POLYGRAPH EXAMINATION CHARTS

Action shall not be taken against an individual solely on the basis of the results of an analysis of polygraph charts.

When deception is indicated on polygraph charts, the examiner will attempt to resolve the matter with the examinee.

When the indicated deception is not resolved with the examinee at the time of initial polygraph examination, the results of the examination shall be forwarded to the requesting agency.

If, after review by the requesting agency, the individual's clearance is still in doubt, he will be given the opportunity for reexamination.

If, after further examination, the doubt remains, a comprehensive field investigation shall be undertaken to resolve the indicated deception.

If the investigation produces no actionable derogatory information, there will be no change in the individual's clearance status. STAT

.. Exception to this provision must be personally approved by the Secretaries of the Military Departments; Director, National Security Agency; or in the case of other DoD Components, the Secretary or Deputy Secretary of Defense. The criteria for exception is limited to:

- (1) access to highly sensitive information where time urgency does not permit completion of the investigation, or
- (2) access to information of such extreme sensitivity that access under the circumstances poses an unacceptable risk to the national security.

ADVERSE ACTION BASED ON REFUSAL TO UNDERGO POLYGRAPH EXAMINATION

Adverse action shall not be taken against a person for refusal to take a polygraph examination.

Adverse action will not be taken on the basis of refusal in criminal or counterintelligence cases.

Special access program refusals may result in denial of access but shall not affect a person's grade or pay.

Applicants for DIA critical intelligence positions, CIA "staff-like" access, or any NSA duties, who refuse to take a polygraph examination shall be non-selected.

* Adverse action includes any of the following: denial or revocation of security clearance, denial or withdrawal of access to classified information, termination of employment, reduction in pay or grade, transfer or nonassignment to a sensitive position, or nonselection or nonassignment to a sensitive position. Approved For Release 2008/12/02 : CIA-RDP86B00338R000300370010-0

CURRENTLY AUTHORIZED USES OF THE POLYGRAPH

PROPOSED DIRECTIVE/REGULATION

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SAFEGUARDS TO PROTECT RIGHTS OF INDIVIDUALS

Timely notification of the date, time and place of the polygraph examination.	No change.
Advised of right to obtain and consult with legal counsel prior to the examination.	Expanded to clarify the right to have legal counsel available prior to, during, and after the polygraph examination. Right to terminate the polygraph examination at any time.
Advised of privilege against self-incrimination.	No change.
Probing of a person's thoughts or beliefs or conduct which have no relevance to the investigation are prohibited. (E.g., religion, racial matters, political beliefs and affiliations of a non-subversive nature.)	No change.
No relevant questions may be asked during the examination that have not been reviewed with the examinee prior to the examination.	No change.
DoD policy does not currently specify limitations on technical questions.	Technical questions necessary to the polygraph technique must be constructed to avoid embarrassing, degrading or unnecessarily intrusive questions.
DoD policy does not currently limit relevant questions to counterintelligence topics.	Relevant questions asked during screening polygraph examinations must be limited to prescribed counterintelligence topics.
Adverse action may not be taken solely on the basis of polygraph charts.	No change.
Prior to the examination, examinee must be advised of the nature and characteristics of the polygraph instrument, including an explanation of the physical operation of the instrument and the procedures to be followed during the examination.	No change.
Examinee must be advised if the polygraph examination area contains a two-way mirror or other device, through which the examinee may be observed and if other devices such as those used in conversation monitoring or recording, will be used simultaneously with the polygraph.	No change.
A polygraph examination shall not be conducted if, in the opinion of the examiner, the examinee is mentally or physically fatigued, unduly emotionally upset, or rendered unfit to undergo an examination because of excessive use of a sedative, stimulants or tranquilizers.	No change.

CURRENTLY AUTHORIZED USES OF THE POLYGRAPH

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PROPOSED DIRECTIVE/REGULATION

Polygraph examination technical reports* shall be retained by the office conducting the polygraph examination and shall not be disseminated outside the Department of Defense except as required by law. No change.

Polygraph examination results** may be made available to: No change.

- .. Officials within DoD responsible for personnel security, intelligence, counterintelligence, law enforcement and the administration of justice.
- .. Law enforcement officials outside DoD when the examination has been conducted in connection with the investigation of a criminal offense or reveals criminal activity on the part of the individual examined.
- .. The examinee or his or her legal counsel, upon request.
- .. The National Archives and Records Service, General Services Administration upon retirement of the file.

Polygraph examinations shall be administered only by DoD polygraph examiners who have been selected, trained and certified in accordance with established DoD policies and procedures.

No change.

No specific provision contained in current directive for appeal of adverse actions in cases involving use of the polygraph.

Any adverse consequences in cases involving the polygraph are appealable in accordance with applicable personnel and security appeals procedures.

* Polygraph examination technical reports include pretest preparations, the examiner's notes, examination charts, and other technical details of the examination.

** Polygraph examination results include a synopsis of the examination, the relevant questions asked, the subject's answers, the examiner's opinion concerning truthfulness or deception, and any admissions made by the examinee during the examination.